will be fully clear only when the time comes for confidential matters to be disclosed without detriment to public interests— had a tried and trusted friend who stood by Travancore, fought for Travancore and championed Travancore's cause amidst opposition. And it is only elementary gratitude on the part of Travancore and the institutions of Travancore to realise this and to place on record our sense of the irreparable loss sustained at this juncture by the loss of one who was a great gentleman and a great friend of India.

The motion was carried *nem con* the House standing.

DEMAND XIV—ADMINISTRATION OF JUSTICE— Rs. 10,65,073.

Mr. Puthupally S. Krishna Pillai (*Legal Remembrancer to Government*): Sir, I rise to move for a grant of Rs. 10,65,073 under Demand XIV—Administration of Justice.

President: What is the opinion of the honourable House as regards discussing Demands XIV and XV together?

The House expressed its assent to the two demands being discussed together.

President: I think it is better for the Chief Secretary to move the Demand relating to the Jail Department.

Rajyasevapravina M. K. Nilakanta Aiyar: Sir, I rise to move for a grant not exceeding Rs. 1,15,197 under Demand XV—Jails.

Mr. T. Krishna Pillai (*Kalkulam anā Vilavancod* cum *Neyyattinkara*): In that case may I know whether the time limit for the discussion of the two demands will be enhanced.

President: That will depend on the nature of the debate. If we are satisfied with the debate I will wake up to the lapse of time.

Mr. K. K. Kuruvilla: I support the demand. In supporting the demand, I wish to say that capital punishment in the State may be abolished. I understand that there are six cells in the Central Jail for condemned prisoners. These six cells might have been constructed because the Government at the time might have thought that there would not be more than six needed at any time in the State. But I hear there are several persons now waiting outside who might be called to this cell one after the other. I do not know whether that is due to the fact that criminals have increased in this State to a very large extent or because the Courts of Justice have become more strict in their administration of justice. I therefore plead, Sir, that because Travancore is moving with the times, it should also abolish capital punishment. I understand that in several American States, capital punishment has been abolished.

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President: After abolishing it, one or two States are re-introducing that form of punishment.

Mr. K. K. Kuruvilla: I am glad that only two or three States are re-introducing it. But there are many States more which still keep on to this.

Mr. P. I. Simon (*Municipal Councils*): May I know, is it the idea of the honourable member to amend the Penal Code?

President: That is what he is arriving at. That necessarily follows.

Mr. K. K. Kuruvilla: I understand that Brahmins and Women in this country are excluded from capital punishment.

President: I hope that won't be for long. Government propose to alter the Penal Code so as to take away the privileges of the Brahmins and Women in this matter.

Mr. K. K. Kuruvilla: If capital punishment could not be abolished, I would suggest the introduction of electrocution.

President: I have studied this point with more care and have made personal enquiries about electrocution. I must say that electrocution, when successful, it is extraordinarily successful; there are many occasions when it is not and gives rise to excruciating orture, because each hair in the body flies away and it gives rise to serious complications. It is a horrible thing when electrocution is not successful.

Mr. K. K. Kuruvilla: Anyway, Sir, I leave this matter to the generous consideration of the Government.

I want to speak just a word about Jails. As we pass along the roads where Jail is situated, we hear cries of wailing inside that institution. I have often questioned about that state of affairs myself. That has awakened our feelings to a great extent. I have taken courage to say this because I have read that the Inspector General of Police is launching a mission for lepers. He has been trying to organise relief for them. If the feelings of the Inspector General of Police could be touched at the mere sight of the lepers and if he is so sympathetic to their suffering, I ask the question why not the same sympathy be exhibited to the prisoners in the Jails. I suggest that some improvement may be made in our jails. How are we to effect those improvements? As I said on another occasion the constables who arrest the culprits should not guard them at night.

Mr. M. K. Ananthasiva Aiyar: May I know whether the honourable member is referring to the condition of lock-ups?

Mr. K. K. Kuruvilla: Yes, Sir. The constables who arrest the prisoners should not be allowed to keep watch over them during night time. It is said that evidences are taken from these culprits during that period by the police officers.

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Mr. T. Krishna Pillai : May I know whether the honourable member is in order to speak about the lock-ups under the Demand 'Jails'?

Mr. Puthupally S. Krishna Pillai : The point of order raised is correct, Sir.

Mr. K. K. Kuruvilla : Then I shall reserve my remarks on this matter when the Police Demand comes up for discussion.

Mr. Kottur Kunjukrishna Pillai : Sir, I wish to draw the attention of Government to the fact, now that from the 1st of Chingam standard time is to be introduced for working hours in all the offices of the State, that instead of 10-30 A. M. for offices 11 A. M. may be fixed.

President : Orders have already been passed on that matter The working hours have been modified.

Mr. Kottur Kunjukrishna Pillai : Thank you, Sir.

The question of abolition of capital punishment has been raised by my honourable friend Mr. Kuruvilla. Though he did not discuss it further, I think it is absolutely necessary for me to put forward my opinion with regard to that matter. Sir, as a matter of fact, it will be seen from judgments of courts that our judges are very reluctant to give the only punishment that has been prescribed for murder under the Penal Code, namely the capital punishment. Of course, they try to escape giving that punishment by pointing out extenuating circumstances which are oftentimes very hard to be construed as extenuating circumstances. In a recent judgment written by his honour Justice Nokes, he has very clearly pointed out this laxity and enjoins that capital punishment ought to be given wherever a case of murder is proved, and no shoddy sentiments should over-rule the judge. Sir, the question should not be looked at from the point of view of pious individuals who are horrified to see that the life of a person is taken away by the authority of the State. The question has to be considered from the point of view of punishment being deterrent. If we have a sufficient sense of justice, if we look at the moral abhorence of the crime, I think, though it may be criticised no arguments can be put forward to condemn this system. There is nothing that has been found to be as effective as this punishment. A human but for his appearance being made presentable and mild by the attention of the barber and the washerman, if he appears in his original form, even physically, he is the most ferocious animal that could be imagined. And, if we go into the manifold methods of his perpetration of crimes for the achievement of selfish ends, no animal that I have come across is so ferocious as the man with criminal inclinations, I have absolutely no compunction to state that so

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[Mr. Kottur Kunjukrishna Pillai.]

long as human nature is what it is and so long as things are what they are, capital punishment which has stood the test of time all these years needs much further argument before one comes forward with a motion for the abolition of it.

Mr. V. Sankara Menon: May I know whether my honourable friend has not come across saintly or soft-minded persons who are not ferocious to look at?

President: That means they are not ferocious, and there are two categories of men.

Mr. Kottur Kunjukrishna Pillai: Therefore, I do not think it is time to reconsider that question. Unless further arguments are put forward to show that punishment should deflect from its present method of being deterrent or something less, that means a fundamental change in the whole technology of punishment and if that is brought forward and if found acceptable, then it will be time to think about the abolition of capital punishment. For the present, that does not concern us as a matter of practical politics.

I want to bring to the notice of the House one question that arises from the Debt Relief Act.. We find Sir, that it has become absolutely impossible to realise the moneys deposited by the debtors in courts. There is inordinate delay in disbursing the amounts already deposited. Sometimes, there may be some controversy put forward and until the controversy is settled the court says that the money cannot be disbursed. If a creditor says that he will be done with all controversy and is prepared to accept the money that is deposited in court, such a position is not recognised by the court. I myself had the misfortune to experience this in one or two cases. It has become extremely difficult to get the money from courts. The whole thing looks mysterious. The court says that the delay is caused by the Treasury and this and that. The net result is, that the creditors are not able to get even the first instalment of money; the time for the second instalment is almost over so to say. Before the coming in of the Debt Relief Act, we had the chance of getting hold of the debtor who might be willing to pay the money directly instead of depositing it in courts.

President: Does the honourable member say that after the debtor has paid his money in court, the creditor experiences delay in drawing up that money?

Mr. Kottur Kunjukrishna Pillai: Yes, Sir. That is the position.

That is the difficulty experienced.

President: I think under the Statute a mere memorandum is enough, not even a formal petition.

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Mr. Kottur Kunjukrishna Pillai: Everything under the Act has been done. But the Court says that there is some delay due to some technical requirements not being gone through and money is not got. That is a fact which we personally know.

Mr. Puthupally S. Krishna Pillai: Is it because there is an order of attachment placed on the amount or because of the delay in the courts?

Mr. Kottur Kunjukrishna Pillai: Now I will put forward an instance in which the decree as settled by the court has been conceded, the number of instalment agreed upon and the application for receiving the first instalments has been given and yet it has not been possible for the party to get the money. There are any number of such cases.

President: Will the honourable member be good enough to bring one or two such instances to the notice of Government. Let me see what can be done in the matter.

Mr. James Fletcher: May I know whether this delay of disbursing money is often attributed to the execution clerk?

Mr. Kottur Kunjukrishna Pillai: I do not wish to speculate on the work of the execution clerk nor to rush in like my friend Mr. Fletcher where wise people fear to tread. I want only to place the facts. I do not want to put the blame on the execution clerk or anybody else. I am not prepared to say that the execution clerk or any body else is responsible for it. I state the facts. It is a great difficulty and mischievous people are taking this opportunity to spread rumours. But that does not matter. We want money and it should be with as little delay as possible. I shall bring to the notice of Government one or two specific instances.

President: A few cases will be quite sufficient.

Mr. Kottur Kunjukrishna Pillai: Then I wish to put forward a plea for the establishment of a Munsiff's Court at Kayancolam. Sir, the Munsiff's court from Krishnapuram was shifted to Kayancolam in Dhanu 1101. Since then it has been working very well and the Laws Delays Commissioner who enquired into the matter has definitely stated that Kayancolam is the fittest place for the establishment of a Munsiff's Court. There are a few peculiarities with regard to Kayancolam. Kayancolam town has as its neighbouring area places belonging to three different taluks and it is a small commercial centre and the merchants of those places find it absolutely difficult to present their account books and conduct cases in three different courts. The same book will be required by three different jurisdictions. There is also a good building at Kayancolam to house the Munsiff's Court. I think instead of Krishnapuram, Kayancolam will be a better place for the

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[Mr. Kottur Kunjukrishna Pillai.]

establishment of the Munsiff's Court. So in view of the importance of Kayancolam town as a commercial centre, its peculiar situation, and in view of the recommendation of the Laws Delays Commissioner, Kayancolam is preferable to Krishnapuram for the establishment of the Munsiff's Court. The place which has become well known by the association with the name of the Legal Remembrancer, viz., Puthupally, also come within the jurisdiction of Kayancolam. So I think he may not put forward a very strong objection.

President: He has very little voice in the matter. It is the High Court that has to deal with these matters.

Mr. Kottur Kunjukrishna Pillai: I am anticipating his psychology. So in the light of the remarks made by the Laws Delays Commissioner, investigation should be started by Government to see that the Munsiff's court is established at Kayancolam.

Mr. G. Narayana Aiyar: May I know whether litigation is on the decrease in the various courts after passing the Debt Relief Act?

Mr. Kottur Kunjukrishna Pillai: Litigation may be decreasing but applications for the settlement of disputes and payment of instalments are increasing. Litigation may revive after the second or the third instalment fails. We will have to think not in terms of a few days or months. The difficulty that I wish to point out is that of the merchants who have to produce their account books simultaneously in courts of three different jurisdictions.

Mr. M. Govindan: Sir, I wish to speak a few words on the Demand—Administration of Justice. First of all I have to refer to the discussion regarding abolition of capital sentence. There are three aspects for punishment, One is the old Mosaic idea of tooth for tooth—retribution. The other is that punishment should be deterrent. It should be an example so that crime may not be repeated and the third is reformatory, try as far as possible to correct in order to prevent the crime. The capital sentence has come into existence more as retributive than as reformative or preventive even. The idea predominent in the mind of Mr. Kunjukrishna Pillai while suggesting that capital punishment should not be abolished was more the old antiquity idea of retribution and not the idea of reformation.

(*Hear, Hear*)

Mr. Kottur Kujnkrishna Pillai: Sir, a word of personal explanation. My idea was that it should be deterrent.

Mr. M. Govindan: He did not hide the fact that it should be deterrent. But in order that punishment may be deterrent, the teeth for teeth idea need not come in. I am speaking with a great diffidence in this House on this subject because from the Chair

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came the observation that even the exception that has been granted to the Brahmins and women may shortly be taken away.

President : What I meant to say and what I mean to say is that under the penal law there should be no distinction of tha kind at the present moment. I am not a disbeliever in capita punishment, but if the House and the general sentiment in the country is for its abolition then the Brahmins and the women will share in that general exemption.

Mr. M. Govindan : I feel greatly consoled by the explanation from the Chair.

President : I am afraid it is a shortlived consolation, I wish to speak on the matter.

Mr. M. Govindan : Simply because a man happened to kill another, it is not right to award him with capital punishment. If the country is unanimous in its demand, I am sure, Government will reconsider the position.

Mr. T. W. H. Park : May I know from the member whether there is any society for the abolition of capital punishment ?

Mr. M. Govindan : I am not aware of the existence of any such society. But it is the general feeling in the country that I am voicing.

Mr. Kottur Kunjukrishna Pillai : May I know whether Harijans should be excluded from capital punishment ?

Mr. M. Govindan : I do not propose to answer that question. I am serious. My friend is in a light mood.

Mr. A. Easwara Pillai *Kottarakara and Pathanapuram cum Shertallai*: May I know whether the member has awarded any capital punishment when he was the District Judge ?

Mr. M. Govindan : I do not propose to answer that question either.

We have got reformatory for correction of the criminal tendencies of children. The scope of the reformatory may be extended. The line in which progress can be achieved are on the lines of going against the retributive idea and trying to reform as much as possible the criminal tendency of the people. Of course, I do not forget that exemplary punishment should be given and that is one of the chief aims of punishments. But exemplary punishment need not be brutal. If it happens to be so, the feeling may be a different reaction from the one that is expected,

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[Mr. M. Govindan.]

Then I have to say a word about the pay of the judges. Recently the pay of the District Judges has been reduced or rather converted into Rs 400-700. I speak subject to correction. I would suggest an amendment which will not make much difference in the financial condition. I would suggest the scale of Rs. 500-600 because Rs. 400 is too low a pay for a person occupying the position of a District judge, who has got appellate jurisdiction even over District Magistrates. Such a person ought to be paid Rs. 500 as starting.

Mr. Kottur Kunjukrishna Pillai: May I know from the member whether in that case District Judges will not be aspiring to get higher grades in the executive lines if this proposal is actepted?

Mr. M. Govindan: My own impression is that no person who is occupying the independent position of a District Judge is likely to aspire for any other appointment for the simple reason that he will get a little more money.

I am strongly of the opinion that the pay of the District Judge ought to be fairly high. I shall point out one of the main reasons for that. District Munsiffs of the first grade are drawing Rs. 300 and their work has to be inspected by the District Judge.

The work has to be inspected by a District Judge and some times the District Judges were not permitted even to inspect. When the question was put in the House, the then Chief Secretary answered that the disparity between the pay of the District Judge and the District Munsiff was not such as to command the necessary respect and weight to the decisions. Therefore, I would strongly recommend that an exception be made to the District Judges and they may be paid at least Rs. 500.

Then, another point which I have to urge upon the attention of the House is in regard to the housing of these courts. Now, Sir, more than 30 years ago Government wanted that all the District Courts should be housed in *pucca* buildings on an uniform plan and three such buildings were constructed—one at Nagercoil, another at Alleppey, and a third at Parur. All these buildings are of the same plan. But for Trivandrum, the idea then was to construct a more decent building for the purpose of housing the District Court. But what we find here is a thatched shed where it is very dangerous to keep records particularly at this juncture when life and property is not safe from attacks from above. I am afraid, Sir, that we should house the records of the District Court in a proper building or we should house the District Court at Trivandrum itself in a more suitable and substantial building in the near future.

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With regard to the office time, my friend Mr. Kottur Kunjukrishna Pillai was seemed to be satisfied when it was announced that 11 O' clock would be fixed as the office time so that there may not be any change with regard to the present time consequent on the adoption of the standard time. I am not in agreement with him. I am sorry, Sir, that notwithstanding the representations made in this House, it was considered that the old time need not be changed. Now, that we are changing the time, I thought that the old 11 O' clock would be adopted i. e., 11·30 of the standard time.

President : 11-30 to ?

Mr. M. Govindan : 11-30 to 5, Sir. Now, most of us have not sufficient time to take meals and go to court. Often we go late and the judges find fault with us and our petitions are disposed of unfavourably.

President : In so far as they have the power, Government have passed certain orders as to the time to be adopted in Government offices and they have sent up the matter for consideration of the High Court.

Rajyasevapravina M. K. Nilakanta Aiyar : Orders have been passed in regard to the adoption of the new time.

Mr. M. Govindan : That is with regard to the time. I have just one word to say with regard to some recent appointments. I wish to take this opportunity to express the general satisfaction among the public and the legal profession on the appointment of Mr. Thaliath .....

President : These appointments of the High Court are generally not discussed on the floor of the Legislature, obviously, first of all, these are personal appointments of His Highness, and secondly the position of the High Court is such that nothing can be said either in favour or against it on the floor of this Legislature.

Mr. M. Govindan : I simply expressed the satisfaction of the public over the recent appointment in the High Court. With these words, I support the motion.

Mr. Kallur Narayana Pillai (*Mavelikara and Tiruvalla cum Pattanamtitta*) : സർ, ഞാൻ ഈ ഡിമാൻറിനെ എതിർക്കുന്നു. കൃഷ്ണപുരം മുൻസിഫ് കോടതി നിർത്തിയതുകൊണ്ട് പല വൈഷമ്യങ്ങളും വന്നിട്ടുണ്ട്. ഇപ്പോൾ മാവേലിക്കര ഒരു മുൻസിഫ് കോടതിസ്ഥാപിച്ചിരിക്കുകയാണല്ലൊ. ആ മുൻസിഫ് കോടതിക്കു തെക്കുവശം കരുനാഗപ്പള്ളിയും പടിഞ്ഞാറുവശം കാർത്തികപ്പള്ളിയും എന്നിങ്ങനെ രണ്ടു താലൂക്കുകൾ അധികാരാതൃത്തികളായിട്ടുണ്ട്. മാവേലിക്കരയിലും കരുനാഗപ്പള്ളിയിലും മുൻസിഫ് കോടതി സ്ഥാപിച്ചതോടുകൂടി കൃഷ്ണ

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[Mr. Kallur Narayana Pillai.]

പുരം കോടതിയുടെ അധികാരാതൃത്തിസ്ഥലങ്ങൾ ചുരുങ്ങുകയാണ് ചെയ്തു ള്ളു. ആ കോടതി ഫ്രഫ ഒ കുംഭംമുതൽ നിറുത്തേണ്ടിവന്നതു് ഞാൻ മുൻപറഞ്ഞ കാരണങ്ങളാൽ ഒരിക്കലും നീതീകരിക്കാവുന്നതല്ല. കായംകുളം കന്നോളത്തിനു തെക്കുവശമുള്ള പാലത്തിനു തെക്കുവശം കരുനാഗപ്പള്ളി താലൂക്കും പാതിനു വടക്കുവശം കാർത്തികപ്പള്ളി താലൂക്കും അര ഫർലോങ് വടക്കുമാറി മാവേലിക്കര താലൂക്കുമാണ്. ഇപ്പോൾ കായംകുളത്തുള്ള കച്ചവടക്കാർക്കുംമറ്റും മൂന്നു കോടതികളിലും കേസുകൾ ഫയൽ ചെയ്യേണ്ടതായും വിധി നടത്തേണ്ടതായും വരും. ഇതു് അവർക്കു വലിയ സങ്കടകരമായ ഒരു കാര്യമാണ്. വലുതായ നഷ്ടത്തിനും ഇടവരുത്തും. മാവേലിക്കര സ്ഥാപിക്കപ്പെട്ട ജില്ലാക്കോടതിയിൽനിന്നും കഷ്ടിച്ചു രണ്ടു മൂന്നു നാഴിക അകലമുള്ള പത്തിയൂർ, കണ്ടല്ലൂർ എന്നീ പകുതികൾ ഇപ്പോൾ ഹരിപ്പാട്ടു മുൻസിഫ്കോടതിയുടെ അധികാരാതൃത്തിയിൻകീഴിൽ വച്ചിരിക്കുകയാണ്. ഈ പകുതിയിലുള്ളവർക്കു് ഏതെങ്കിലും കേസിൽ അപ്പീൽ കൊടുക്കണമെന്നുണ്ടെങ്കിൽ ആലപ്പുഴയിൽ പോകണം. എന്നാൽ അവർക്കു രണ്ടു മൂന്നു നാഴികയിൽ കൂടുതൽ അകലമില്ലാത്ത സ്ഥലത്തു് മാവേലിക്കരയിൽ ഒരു ജില്ലാക്കോടതി ഉണ്ടു താനും. അതുകൊണ്ടു് ആ പകുതികൾകൂടി മാവേലിക്കര ജില്ലാക്കോടതിയുടെ അതൃത്തിക്കകത്തു് ആക്കേണ്ടതാണ്. ഇതിലേക്കു് ഒരു നിർദ്ദേശമായി എനിക്കു പറയുവാനുള്ളതു് ഹരിപ്പാട്ടു മുൻസിഫ് കോടതിക്കൂടി മാവേലിക്കര ജില്ലാക്കോടതിക്കു വിട്ടുകൊടുക്കണമെന്നാണ്. ചെങ്ങന്നൂർ, തിരുവല്ല, പത്തനംതിട്ട, മാവേലിക്കര, അടൂർ ഈ നാലു മുൻസിഫ് കോടതികളാണല്ലൊ ഇപ്പോൾ മാവേലിക്കര ജില്ലാക്കോടതിയുടെ അധികാരാതൃത്തിയിൽ ഉള്ളതു്. ഇതിൽ മാവേലിക്കര പടിഞ്ഞാറെ അറ്റത്തു സ്ഥിതി ചെയ്യുന്നു. അതുകൊണ്ടു് ഹരിപ്പാട്ടു മുൻസിഫ് കോടതിക്കൂടിയോ ആ കോടതിയിലെ അധികാരാതൃത്തിയിൽപെട്ട ഏതാനും പകുതികളോ മാവേലിക്കര ജില്ലാക്കോടതിക്കു വിട്ടുകൊടുക്കാവുന്നതാണു.

മികച്ച ജനസംഖ്യയുള്ള സമുദായങ്ങൾക്കു മിക്കവാറും അതോ ഹരിഭാഗം വന്നുതാട്ടുകൂടി ആധാരങ്ങൾ അസ്ഥിരപ്പെടുത്തുന്നതിനുള്ള വ്യവഹാരങ്ങളും ഇപ്പോൾ ധാരാളം നടക്കുന്നുണ്ട്. എന്നാൽ വസ്തുവിന്മേൽ സ്ഥാപിച്ചിട്ടുള്ള കടങ്ങൾ തിരിച്ചീടാക്കുന്ന വിഷയത്തിൽ കടക്കാർക്കു വേണ്ടിടത്തോളം സൗകര്യം ഉണ്ടായിരിക്കണമെന്നുള്ളതു് നീതിന്യായ

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ത്തിന്റെ മൌലികമായ ഒരു ധർമ്മമാകുന്നു. ഇന്നാണെങ്കിൽ മുൻബാധ്യതക്കാരൻ പിൻബാധ്യതക്കാരൻ ഇവർ ആരെല്ലാമെന്ന് ഒരു വസ്തു വാങ്ങുന്ന ആളോ വിൽക്കുന്ന ആളോ ശരിക്ക് അറിയുകയോ അറിയിക്കുകയോ ചെയ്യുന്നില്ല. അതുകൊണ്ട് വസ്തുവിൽ സ്ഥാപിച്ചിട്ടുള്ള ബാധ്യതകൾക്കും മറ്റുമുള്ള അന്യായങ്ങൾ കൊടുക്കുമ്പോൾ ഈ മുൻബാധ്യതക്കാരനേയോ പിൻബാധ്യതക്കാരനേയോ കക്ഷി ചേർക്കാതെയാണ് അന്യായം കൊടുക്കുന്നത്. അതുകൊണ്ട് വലുതായ കഷ്ടനഷ്ടങ്ങൾ കക്ഷികൾക്കും വസ്തു ഉടമസ്ഥനും ഉണ്ടാകുന്നുണ്ട്. അവർതമ്മിലുള്ള അവകാശവഴക്കുകൾ എങ്ങനെ തീർക്കുമെന്നു ഹൈക്കോടതിയിൽനിന്നും ചില രുളുകൾവഴി വ്യവസ്ഥചെയ്തിട്ടുണ്ട്. എന്നാൽ അവയെല്ലാം ഒന്നിനൊന്നു വിരുദ്ധമായതുകൊണ്ട് ഒടുവിൽ ഒരു ഫുൾബെഞ്ചുകൂടി ഒരു തീരുമാനമുണ്ടാക്കുകയും ഇപ്പോൾ ആ തീരുമാനമനുസരിച്ചു കോടതികൾ വിധി പ്രസ്താവിക്കുകയും ചെയ്യുന്നു. അതുകൊണ്ട് മുൻബാധ്യതക്കാരനേയും പിൻബാധ്യതക്കാരനേയും വ്യക്തമായി കണ്ടുപിടിക്കത്തക്കവണ്ണം ഒരു പദ്ധതി ഗവണ്മെന്റു കണ്ടുപിടിക്കേണ്ടതാണ്. എനിക്കു തോന്നുന്ന ഒരു നിർദ്ദേശം ഞാൻ പ്രസ്താവിക്കാം. ഒരു സർക്കാരുദ്യോഗസ്ഥന്റെ സർവീസുകാലം മുഴുവനും ഉണ്ടായ ശിക്ഷകളും പ്രമോഷനുകളും സ്വവും അയാളുടെ സർവീസുബുക്കു നോക്കിയാൽ അറിയാൻകഴിയും. അതുപോലെ ഒരു പട്ടാളാരന്ന് എപ്പോഴും ഒരു പാസുബുക്കുണ്ടായിരിക്കണം. ആ പാസുബുക്കിൽ അയാൾക്കവകാശമുള്ള സ്വവസ്തുക്കളുടെയും സ്ഥിതിവിവരക്കണക്കുകൾ കുറിച്ചിരിക്കണം. ഏതെങ്കിലും ആധാരങ്ങൾ ജപ്തിചെയ്യുന്നതായാൽ ആ വിവരവും ഈ പാസുബുക്കിൽ കുറിച്ചു കൊടുക്കുവാൻ സബ്രജിസ്ട്രാർ നിഷ്കർഷയായി ശ്രദ്ധവയ്ക്കണം. ഒന്നിലധികം പകുതികളിൽ ഈ പട്ടാളാരന്റെ വസ്തുക്കൾ ഉണ്ടെങ്കിൽ ആ പകുതിക്കച്ചേരികളിൽ അയാളുടെ പാസുബുക്കിന്റെ പ്രതികൾ സൂക്ഷിക്കുകയും ആധാരവിവരം രേഖപ്പെടുത്തുകയും ചെയ്യണം. ഇങ്ങനെ ചെയ്യുന്നപക്ഷം വസ്തുക്കൾ കരണംചെയ്യുന്ന കക്ഷികൾക്കു യാതൊരുതരത്തിലും വൈഷമ്യങ്ങൾ ഉണ്ടാകുന്നതല്ല.

ജൂഡിഷ്യൽ ഡിപ്പാർട്ടുമെൻറിൽ എഫിഷ്യൻസി നോക്കാതെ വർഗ്ഗീയപ്രാതിനിധ്യമനുസരിച്ചു നിയമനങ്ങൾ നടത്തുന്നതുകൊണ്ടുള്ള വൈഷമ്യങ്ങൾ കൂടുതലായി ഞങ്ങൾവിചാരിക്കേണ്ടതു വക്കീലന്മാരാണ്. അടുത്ത അവസരത്തിൽ ഗവണ്മെൻറ് ഒഴിവുദിവസങ്ങൾ കുറച്ചുതുകണ്ട

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[Mr. Kallur Narayana Pillai.]

ഒരാം കോടതികളിലെ മിഡ്സമ്മർ വെക്കേഷൻക്രടി കുറച്ചുകളയുമോ എന്നു ഒരു മുൻസിഫ് ചോദിക്കുകയുണ്ടായി. എഡ്യൂക്കേഷൻ ഡിപ്പാർട്ടുമെൻറിലെ അദ്ധ്യാപകന്മാക്ക് മിഡ്സമ്മർ വെക്കേഷൻ കൊടുക്കുമെങ്കിൽ കോടതികൾക്കും അതു കൊടുക്കുമെന്നു പറഞ്ഞു. എന്തെന്നാൽ അദ്ധ്യാപകന്മാക്ക് കുട്ടികളെ പഠിപ്പിക്കുന്നതിനെക്കാൾ കൂടുതൽ ക്ലേശങ്ങൾ വക്കീലന്മാക്ക് ജഡ്ജിമാരെ കേസ് പഠിപ്പിക്കുന്നതിനു ഉണ്ടാകുന്നതാണു. അതുകൊണ്ടു ഒഴിവു ദിവസങ്ങൾ കുറയ്ക്കുകയില്ലെന്നു മറുപടി പറഞ്ഞു. അതുകൊണ്ടു ജഡ്ജിമാരെ നിയമിക്കുമ്പോൾ എഫിഷ്യൻസി നോക്കേണ്ടതു വളരെ അവശ്യമാണു. സമുദായപ്രാതിനിധ്യവും എഫിഷ്യൻസി അനുസരിച്ചു വേണമെങ്കിൽ നോക്കാം. എങ്കിലും എഫിഷ്യൻസിക്കു വേണം പ്രാധാന്യം കൂടുതൽ കൊടുക്കുവാൻ.

Mr. N. Krishna Aiyar (*Kottayam and Changanacherry cum Peermade*) : Sir, I support the demand. In doing so, I wish to express my gratification to see considerable diminution of delays in civil courts. But I want to draw the attention of the House, at the same time, to the influx of the innumerable Debt Relief petitions. Sir, this was anticipated already. But in the enactment remedies have not been clearly suggested for adoption. The paucity of rules for the administration of this novel legislation and also the want of reported decisions on the several sections, give rise to different kinds of procedure in different courts, and in some cases, even in different benches of the same court. I may refer, for instance, to Section 16 which relates to the rural insolvency provision, under which the Act does not provide any definite rules.

Even the few rules which are published, relate mainly to the payment of court fees on disputed amounts. Section 16 relates to Rural Insolvency. A debtor, who is unable to pay the debts even 70 per cent. according to the Act, comes to Court and says that he is leaving all the properties at the disposal of the Court and is asking for his one-fourth share of the property free of all encumbrances or Rs. 3,000, whichever is less. About a hundred of such petitions are now pending in the Kottayam District Court itself and similar petitions must have been filed in several other Courts too—and nothing has been done with these petitions. Since a debtor offers to place all the properties at the disposal of the Court, the procedure, whether a receiver is to be appointed to take possession of all those properties or a commissioner is to be deputed for valuation of those properties, has not been determined. Several petitions

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under other sections are not being proceeded with for want of definite rules or definite ideas, regarding the administration of them. So, my submission is that the Legal Remembrancer, or the High Court may be directed to frame proper rules of procedure for the working out of these sections, so as to minimise delay and hardship. There is also difficulty experienced by some of the Courts asking to file fresh vakalaths for every debt relief petitions whether a petition is presented on the trial side or the execution side. Fresh vakalaths are intended to be filed, only for fresh proceedings. I am personally aware of some Judges insisting on fresh vakalaths for every petition put in. Some definite rule or guidance should be given to the Judiciary regarding this matter also.

As regards the point raised by Mr. Kottur Kunjukrishna Pillai, I am also aware that there is considerable delay experienced in realisation of the amounts from Court, deposited by the debtors. A rumour was afloat and it is still current that there was a confidential circular either by the High Court or by the Government that these moneys need not be disbursed atonce. I am only speaking of the rumour and perhap thats rumour is still current. I do not know how it arose. It should be on account of the ignorance of the public, but it has been the result of the inordinate delay.

President: I may assure honourable members that there is absolutely no reasoning in that.

Mr. N. Krishna Aiyar: There cannot be any foundation for such a thing. That is well known to all intelligent people, but the common people believe it on account of the inordinate delay in the disbursement of these amounts. I know more than a dozen cases in which I have appeared in which moneys deposited on 20th Edavam, have not yet been issued. I do not want to quote specific cases or instances, but the fact remains that several of the amounts, in fact the bulk of the amounts deposited on the 21st Edavam, still remains in the Court.

Mr. M. K. Ananthasiva Aiyar: May I know from the honourable member whether the amounts deposited before the 30th Kumbhom have been realised?

Mr. N. Krishna Aiyar: There are certain amounts deposited even before 30th Kumbhom still remaining in Court.

I may also point out that I agree with Mr. Govindan that the Judiciary should be maintained at a high level or degree of prestige and efficiency, because the index of civilisation of a State or country depends upon the high level of efficiency and independence of th Judiciary. Therefore, the ordinary idea of levelling down the Judiciary with the other administrative or executive departments,

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[Mr. N. Krishna Aiyar]

should not prevail with Government, even in the matter of retrenchment or economy, because the work done by a Judicial officer is more taxing and is of a more intellectual character than the work usually allotted to executive and secretariat functions. It is therefore necessary, for more reasons than one, that the level of the Judiciary must be kept very high. Travancore is fortunate today in having at the Head of the Administration one who has been and is the greatest lawyer of India.

President: But never a Judge.

Mr. N. Krishna Aiyar: Having been born and bred up in forensic culture and traditions, having risen to heights of eminence almost unparalleled, I must emphasise the point all the more strongly that under his able administration a high level and diginity of the office of a Judge and the Judiciary should be maintained, so that, in the matter of recruitment and in scale of pay given to the Judges, they should not be classed along with the other departments. With these observations, I support the demand.

Mr. A. Easwara Pillai: Sir, I do not wish to speak on the propriety or legality of the executive exercising control over the Judiciary nor do I propose to speak on the slackness of the Judiciary in the disposal of suits. But I wish to point out that the present circular, fixing the time-limit for different classes of suits, causes considerable grievance and trouble to the litigant public. The circular does not affect the officials. They can dispose of the suits and the applications under the Debt Relief Act as expeditiously as possible without minding for the quality of the work. But the public at large, especially the litigant public, are very much affected on account of the circular.

Mr. Puthupally S. Krishna Pillai: May I know from the honourable member which is the circular to which he refers?

Mr. A. Easwara Pillai: The circular fixing the time-limit for the disposal of suits and the G. O. issued by Government relating to the payment of increment. A civil suit should be disposed of in 3 years and a small cause suit should be disposed of within 6 months. so also a summons case in a criminal court should be disposed of in three months and a warrant case should be disposed of within 6 months.

Mr. V. Sankara Menon: May I know whether it is a circular of the High Court?

Rajyasevapravina M. K. Nilakanta Aiyar: That is an old High Court circular.

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Mr. A. Easwara Pillai: That circular is now very strictly enforced.

President: I do not think that the circular referred to by the honourable member is issued by Government, as they have nothing to do with it.

Rajyasevapravina M. K. Nilakanta Aiyar: No, Sir. It is an old circular. The High Court must have sent up the circular again.

Mr. A. Easwara Pillai: We are mainly concerned with the G. O. issued by Government. The increment of pay of the Judicial Officers will be given only if they are able to turn out a prescribed quantity of work.

President: Amongst other things.

Mr. A. Easwara Pillai: But the public have no complaint in the disposal of small cases within the period prescribed. They have also no complaint in disposing of money suits within the period stipulated, but they have a serious complaint in the disposal of property suits within a prescribed period. The circular affects the pending suits.

Mr. Puthupally S. Krishna Pillai: What, according to the honourable member, would be a reasonable period for the disposal of a suit relating to immovable property?

Mr. A. Easwara Pillai: It ought to be left to the discretion of the Judicial Officer. The minimum cannot be fixed.

Mr. Puthupally S. Krishna Pillai: What was the time that was being taken by our Courts for the disposal of an ordinary civil suit relating to immovable property before the circular was issued?

President: Roughly between 20 to 30 years.

Mr. A. Easwara Pillai: That is a matter of calculation for striking an average.

Sir, by citing one or two instances, I can convince the House of the real hardships of the litigant public. Sir, suits are pending in Courts for more than 3 years, without even framing issues. The parties concerned are not at all at fault for this inordinate delay. In some cases, appeals, or revisions may be filed on interlocutary orders and they pend in appeal courts for more than three years, and when the suits, are sent to the lower courts, they are taken up for disposal without allowing the parties to adduce evidence; sometimes even without hearing the Vakils these cases will be disposed of. I strongly appeal to the Government to consider this

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[Mr. A. Easwara Pillai]

matter and at least in the matter of property suits, this rule should not be enforced strictly. I request the Government, to leave such cases to the discretion of the Courts.

Mr. M. Govindan: May I know from the member whether the circular fixing the time-limit, is a hard and fast rule or shall ordinarily be three years?

Mr. A. Easwara Pillai: I have not seen the circular, Sir. But in its application, the Courts are enforcing it with great rigour and severity.

Mr. Haji Hassan Yakoob Sait (*Commerce and Industry, North*): സർ ഞാൻ ഈ ഡിമാൻറിനെ അനുകൂലിക്കുന്നു. എന്നാൽ അതേ അവസരത്തിൽതന്നെ നീതിന്യായവകുപ്പിനെ സംബന്ധിച്ചു സ ല്പം ചിലതു പ്രസ്താവിക്കാമെന്നു വിചാരിക്കുന്നു. ഉദ്ദേശം ഒരു വർഷ ങ്ങളായി നടന്നുകൊണ്ടിരുന്ന കൃഷ്ണപുരം മുൻസിഫ് കോടതി [illegible] കുഭം മുതൽ നിറുത്തലാക്കിയതുനിമിത്തം ഡച്ചുകാരുടെ കാലംമുതൽ തന്നെ ഒരു കച്ചവടകേന്ദ്രമായിരുന്ന കായംകുളത്തും കൃഷ്ണപുരം മുതലായ സ്ഥലങ്ങളിലും ഉള്ള ജനങ്ങൾക്ക് ഉണ്ടായിക്കൊണ്ടിരുന്ന കഷ്ടനഷ്ടങ്ങളും ബുദ്ധിമുട്ടുകളും അവർണ്ണനീയങ്ങളാണെന്നു പറയുന്നതു തെറ്റല്ലെന്നും ഒരു അതിശയോക്തിയായിരിക്കുകയില്ല. ഇതേ സംഗതി സംബന്ധിച്ചു ബഹുമാനപ്പെട്ട ഹൈക്കോടതിയിലേക്കും ഗവണ്മെൻറിലേക്കും സ്ഥല ത്തുനിന്നും ചെയ്തിട്ടുള്ള നിവേദനങ്ങൾക്ക് അനുകൂലമായ യാതൊരു മറു പടിയും കിട്ടിയിട്ടില്ല എന്ന വ്യസനസമേതം ഗവണ്മെൻറിനെ അറിയി ക്കേണ്ടിയിരിക്കുന്നു. മുൻപ് കൃഷ്ണപുരത്തു ഒരു ജില്ലാക്കോടതി ഉണ്ടാ യിരുന്നു എന്നുള്ളതുംകൂടി പ്രസ്താവ്യയോഗ്യമാണ്. പരസ്പരം തൊട്ടുകി ടക്കുന്ന മൂന്നു താലൂക്കുകളിലെ ഏതാണ്ടു ഭാഗങ്ങൾകൂടി ചേർന്നിട്ടുള്ളതാ ണു കായംകുളം പട്ടണം എന്നുള്ളതും ഈ അവസരത്തിൽ ചിന്തിക്കേ ണ്ടതായിരിക്കുന്നു. കായംകുളം പട്ടണം മുഴുവനും ഒരേ ഒരു കോടതി യുടെ അധികാരാതൃത്തിയിൽ ആക്കേണ്ടതു പട്ടണവാസികളുടേയും അവി ടത്തെ കച്ചവടക്കാരുടേയും താല്പര്യങ്ങൾക്ക് അത്യന്താപേക്ഷിതമായിരി ക്കുന്നു. കരുനാഗപ്പള്ളി, അടൂർ, മാവേലിക്കര ഈ സ്ഥലങ്ങളിൽ മുൻ സിഫ്കോടതികൾ സ്ഥാപിക്കുന്നതിനു വളരെമുൻപുതന്നെ കൃഷ്ണപുരം മുൻസിഫ്കോടതി സ്ഥാപിതമായിരുന്നുവെന്നും കൃഷ്ണപുരം മുൻസിഫ് കോടതിയുടെ അധികാരാതൃത്തികൾ കാലക്രമേണ കുറച്ചുകൊണ്ടാണിരു

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ന്നതെന്നും കൂടാവിൽ ഒരു കോടതി തുടന്നുകൊണ്ടുപോകുന്നതിനും അതിനെ നീതീകരിക്കത്തക്കതായി കേസുകൾ കുറവാണെന്നുമുള്ള ന്യായങ്ങൾ കാണിച്ചുകൊണ്ട് അതിപ്രധാനവും അതിപുരാതനവുമായ പ്രസ്തുത മുൻസിഫ് കോടതി നിറുത്തലാക്കിയതു് നീതീകരിക്കുന്നതിന് മതിയായ കാരണങ്ങൾ കാണുന്നില്ലെന്നുള്ള പരമാർത്ഥവും ഗവണ്മെൻറിന്റെ കരുണാപൂർവ്വമായ പുനരാലോചനയ്ക്കു വിഷയീഭവിക്കേണ്ടതാണെന്നും അതുകൊണ്ടു നിറുത്തലാക്കിയ കുണ്ടറ മുൻസിഫ് കോടതി തിരിയെ തുറക്കുകയോ അല്ലാത്തപക്ഷം ഒരു മുൻസിഫ് മജിസ്ട്രേട്ടുകോടതി അനുവദിച്ചു തുറക്കുകയോ ചെയ്യണമെന്നുള്ള ഞങ്ങളുടെ ഒന്നരവർഷക്കാലമായുള്ള ദീർഘശ്വാസത്തോടുകൂടിയ മുറവിളി അസ്ഥാനത്തായിരിക്കുകയില്ലെന്ന് പരിപൂർണ്ണമായി വിശ്വസിക്കുകയും ഞങ്ങളുടെ ന്യായമായ അപേക്ഷ അനുകമ്പാപൂർവം പുനരാലോചിച്ചു് സങ്കടപരിഹാരാർത്ഥം വേണ്ടിയ ഉത്തരവുകൾ ഉടൻതന്നെ പാസാക്കുകയും ചെയ്യണമെന്നു് അപേക്ഷിക്കുകയും ചെയ്തുകൊള്ളുന്നു.

Mr. Sultan Mohiadheen (*Trivandrum, Nedumangad cum Chirayinkil*): സർ, കഴിത്തുറ സ്റ്റേഷനറി മജിസ്ട്രേട്ടുകോർട്ടിൽ ജോലി വളരെ കുറവാണു്. ലാൻറ റവന്യൂ കമ്മിഷണരുടെ ഉദ്യോഗം നിറുത്തൽ ചെയ്തിരിക്കുന്നതോടുകൂടി അസിസ്റ്റൻറ് പേഷ്കാരുംക്ലർക്കുമായ പദ്മനാഭപുരം ഒന്നാംക്ലാസ് മജിസ്ട്രേട്ടിന്റെ ജോലി വളരെ കൂടുതലായിത്തീർന്നിരിക്കുന്നു. അതുകൊണ്ടു് കഴിത്തുറ സ്റ്റേഷനറി മജിസ്ട്രേട്ട കോർട്ട് നിറുത്തലാക്കുകയും വിളവങ്കോട് തഹശീൽദാർക്കു് ഒന്നാംക്ലാസ മജിസ്ട്രേട്ടധികാരങ്ങൾ കൊടുക്കുകയുംചെയ്താൽ ജോലികൾ ശരിയായി നടക്കുന്നതിനുംപുറമെ, ഗവണ്മെൻറിനു ചിലവും കുറയും. കൂടാതെ തഹശീൽദാരെക്കൊണ്ടു ക്രിമിനൽ കേസുകൾ അധികം നടത്തുന്നതിനു വൈഷമ്യമാണെന്നു വിചാരിക്കുന്നപക്ഷം അവിടത്തെ പഞ്ചായത്തുകോടതി ജഡ്ജിമാർക്കു് ആണറി രണ്ടാംക്ലാസ് മജിസ്ട്രേട്ടധികാരം കൊടുക്കുന്നപക്ഷം, പെറ്റിക്കേസുകൾ അവരെക്കൊണ്ടും തീർക്കാവുന്നതാണു്.

Mr. Puthupally S. Krishna Pillai: May I inform the honourable member that orders on this matter have already been passed and the Tahsildar referred to will have 1st Class powers from the first of Chingom?

Mr. Sultan Mohiadheen: ഇപ്പോൾ അവിടത്തെ തഹശീൽദാർക്കു തൽക്കാലം സ്റ്റേഷനറിമജിസ്ട്രേട്ടിന്റെ അധികാരം ഒരു മാസ്

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[Mr. Sultan Mohiadheen]

ത്തേക്ക കൊടുത്തിരിക്കുന്നു എന്നാണ് ഞാൻ അറിയുന്നതു്. എന്നാൽ ഗവൺമെൻറു മെംബറിൽനിന്നും ഈ വരുന്ന ചിങ്ങം ഫ-ാന- മുതൽ അവിടത്തെ തഹശീൽദാർക്കു ഒന്നാംക്ലാസ് മജിസ്ട്രേട്ടധികാരം കൊടുത്തു ഉത്തരവിട്ടിരിക്കുന്നതായി അറിയുന്നതിൽ ഞാൻ ഗവണ്മെൻറിനെ അഭിനന്ദിക്കുന്നു. അടുത്തതായി എനിക്കു പറയാനുള്ളതു് മുൻസിഫുമാരുടെ ഒഴിവുകൾ വരുമ്പോൾ ഒന്നൊന്നരമാസക്കാലത്തേക്കും ചിലകോടതികളിൽ പകരം നിയമിക്കാതെ ഇരിക്കുന്നതുകൊണ്ടു് ജനങ്ങൾ വളരെ സങ്കടമനുഭവിക്കുന്നു എന്നുള്ളതിനെപ്പറ്റിയാണ്. ഇതിയിടെ കുഴിത്തുറ മുൻസിഫ് ഒന്നരമാസത്തെ അവധിയിൽ പോകുകയും ഒരു മാസം കഴിഞ്ഞു പകരം ഒരാളെ നിയമിക്കയും ചെയ്തു. പകരം നിയമിച്ചയാൾ അവിടെവന്നു ചാർജ്ജ് എടുത്തു പത്തുപതിനഞ്ചു ദിവസം കഴിഞ്ഞപ്പോൾ അദ്ദേഹവും ജോലിവിട്ടു പോകേണ്ടതായിവന്നു. ഇപ്പോൾ പത്തുപതിനഞ്ചു ദിവസമായി അവിടെ മുൻസിഫായി ആരേയും നിയമിച്ചിട്ടില്ലെന്നാണറിയുന്നത്. അതുകൊണ്ടു് മേലാലെങ്കിലും തല്ക്കാലമുള്ള നിയമനങ്ങൾ താമസം കൂടാതെ നടത്തണമെന്നു് ഗവണ്മെൻറിനോടു അപേക്ഷിച്ചുകൊള്ളുന്നു.

Mr. Thomas Chandy Mukkadan (*Nominated*): മുൻസിഫ് ഇല്ലാതിരുന്ന അവസരത്തിലും കോടതി കൂടിയിരുന്നോ?

Mr. Sultan Mohiadheen: കോടതി ഉറങ്ങുകിടന്നിരുന്നു.

Mr. M. K. Ananthasiva Aiyar: Sir, I am not surprised at Mr. Govindan and Mr. Krishna Aiyar, who are themselves advocates, advocating the cause of the pitiful condition of the judges. There may be some people who deserve a little more. But there are District Judges who do not deserve even the Rs. 400 that they are allowed to have.

With regard to the rules under the Debt Relief Act, I fully agree with Mr. Kottur Kunjukrishna Pillai in saying that there is real grievance felt by the public. The Debt Relief Act has injured creditors and the working of the Debt Relief Act in so far as they do not get the amount deposited in the Court has added to the trouble. Prior to the promulgation of the rules by Government, parties were prepared to adjust the accounts as between themselves.

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From my own experience I can say that many of my clients came to me and paid their first instalment. But when the rules were passed by Government, from that day onwards the poor debtors do not come to me direct because they are asked by some vakils not to pay their dues to the creditors personally. They were advised to go to the courts.

Mr. T. Krishna Pillai: What is the advantage derived by such advice?

Mr. M. K. Ananthasiva Aiyar: The Vakil will get something for his own living.

Mr. G. Narayana Aiyar: May I ask whether the honourable member himself was not a lawyer once?

Mr. M. K. Ananthasiva Aiyar: Yes, but I did not play such tricks.

Mr. G. Narayana Aiyar: May I know whether the debtor has not got sufficient opportunities of giving on a registered deed or by Anchal M. O.

Mr. M. K. Ananthasiva Aiyar: But the advice that is being given is that if you go to a court it is enough that you pay only a fraction of the dues. Even my own clients have been asked to do so.

Mr. Kottur Kunjukrishna Pillai: May I ask whether if discretion is given the creditor will be able to extort from the debtor?

Mr. M. K. Ananthasiva Aiyar: The debtor is not such a fool as to be extorted as Mr. Kunjukrishna Pillai thinks.

As a consequence of the pronouncements of the Dewan on the floor of this House and elsewhere about the unsatisfactory way in which judicial work is being done, I am glad that considerable improvements have taken place in many of the courts. But still there are lapses. Some of them do not show any signs of improvement whatsoever. It may be either on account of their unwillingness or on account of their incapacity. I know, and I fully realise that the judiciary in Travancore has been declared to be independent of the executive. It ought to be so. But in my opinion the present state of affairs in the judiciary should not be allowed to continue. It is a disgrace. The tone of the judiciary ought to be improved. If it is left as it is, I think it will lead to very dangerous consequences. Personally speaking, you, Sir, are the most capable person, though not in the executive capacity, to advise the judiciary as to how they have to improve matters. In that personal capacity if

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[Mr. M. K. Ananthasiva Aiyar.]

you will take the trouble of spending some of your valuable time to this subject, I think it will have the decided effect of improving the condition of the judiciary.

Mr. V. Sankara Menon: Sir, in speaking on this demand, I go back to my childhood. When I was a child it was instilled into my mind that the judges are very sacred persons. At that time I did not understand the term judge. Even then stories were related to me that the judges form a very high variety of mankind in the sense that the disabled beggars we see on the main roads here, with some shells on their stomach yelling out for alms, were in the previous *janma*, High Court Judges and District Judges. (*Laughter*). On the ground that if a judge deviates from the part of justice, no more sin can be committed in the next *jenmam*. They will fall to the lowest depth of misery. So sacred is the judge. In that view their independence should be maintained; very rarely should the executive interfere in the internal administration of that department. I specially refer to the recent Government order indicating the stoppage of their increments if they do not turn out the desired efficiency.

Mr. M. Govindan: I do not understand the meaning of the expression "turn out efficiency".

Mr. V. Sankara Menon: I mean turn out work. No doubt Government are in a position to see that every department is being worked satisfactorily. But it would be better that the control of the Judicial department is left mainly to the High Court. Not that I say that the judges are above any advice or control from Government but as a matter of principle it is better that the independence of the judiciary is maintained even though the powers of Government are slightly curtailed.

Then I would refer to the poor condition of the members of the Bar. Sir, the profession to which I have the honour to belong is in its *sanidasa*.

President: Some portions of the *sanidasa* are supposed to be good.

Mr. V. Sankara Menon: Even the members of the medical profession are wanted. I saw an advertisement in the *Madras Mail* for Medical men even though they may be about 50 years of age. We alone are not wanted anywhere even for War Service. Sir, the position of a briefless lawyer cannot be imagined. I do not think there is any worse position than that of a lawyer who is unable to earn his livelihood. So I would suggest that some steps be devised early to give some relief to the lawyers.

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Mr. T. Mahamed Ismail ; Why not such members quit the profession ?

Mr. V. Sankara Menon : I do not understand what he means.

Mr. M. Govindan : Why not go back to the villages ?

Mr. M. K. Ananthasiva Aiyar : May I know from the honourable member if an arrangement could not be effected by which the income is apportioned among all the lawyers of a place ?

Mr. V. Sankara Menon : Sir, in the present condition of the lawyers, a firm is necessary. It is this that I have in my mind.

In regard to the lower establishment in the judiciary, namely, the clerks that form the backbone of the judicial administration, their status also should be taken into consideration by Government. to seems that there are persons among them who are getting Rs. 25 It 40 for the past twenty years and more without any chance of promotion whereas their contemporaries who entered service in other departments have risen to higher scales of pay. If that is so, I think that the case of these employees in the Judicial Department deserves the consideration of Government.

With these remarks I support the demand.

Mr. James Fletcher : Sir, I wish to direct the attention of this House generally to the Village Panchayat and Bench Magistrate Courts throughout Travancore and particularly to the Village Panchayat and Bench Magistrate Courts in Trivandrum. Trivandrum is now a city and naturally we expect a City Small Cause Court at a very early date. I hope that wish of mine will fructify in course of time. However in the meantime, what is the state of affairs with reference to the Village Panchayat Court in Trivandrum ? Here money suits are filed. We have got a large number of merchants in Trivandrum and they like to realise their money whenever money is not paid to them by their debtors, through the Village Panchayat Court. Cases are filed but no decision comes for any length of time. What is the reason for this delay in the disposal of cases ? Sir, very often there is no quorum. Ordinarily there should be three judges to sit together and decide a case. The president may come to the court in time and he may wait throughout the day but the other judges do not turn up and he has to go back without having disposed of a single case. That is what is now happening. Then again for some time in the past there was an attempt to bring about co-operation between these judges and it went to the extent of saying that if a particular judge fails to attend the court for a certain number of days he may be removed from the post of honourary Panchayat

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[Mr. James Fletcher.]

Court judge. With all this, I am sorry to state that the Panchayat Court is not working satisfactorily. Even now we have got cases on the file of the Panchayat Court which are three, four and five years old. How can these money suits remain undisposed of for so many years? It is a pity that such a state of things should be allowed.

Mr. Puthupalli S. Krishna Pillai: May I know whether the honourable member is referring to cases which are actually pending trial or which are pending execution?

Mr. James Fletcher: I am referring to cases which are actually pending trial. One of the reasons for this delay may be this. The judges who are recruited to the Panchayat Court are often busy men who have got their own business. They have to attend the court during the hot part of the day and it is perhaps because they do not possess any carriage they delay going to the court. If a certain conveyance allowance is given to them—I am only suggesting this—I am sure that the Panchayat Court will have sufficient number of judges every day to take up cases and dispose them of quickly. I may even go to the extent of saying that there may be two benches sitting together at the same time though in different parts of the building, disposing of the cases. That is also permitted by the Act. So much so I would suggest whether it will not be fit and proper to try the experiment of giving a small conveyance allowance to the judges for attending the court.

Mr. V. Sankara Menon: What will the amount come to?

Mr. James Fletcher: The amount will be very small. It is enough if an allowance of eight annas is paid to each judge every day when he attends court. A horse carriage can take the judge to the court. If such a small sum is given, I am sure that the work in the Panchayat Court will go on briskly.

With reference to the Bench Magistrate Court also, there is heavy work. This work ought to be disposed of as quickly as possible. This court is also bringing in a big income by way of fines to the Government. I therefore request Government to consider this matter and take some action which will end the present state of affairs.

Then, Sir, I would direct the attention of this House to the Court buildings which have been referred to by my friends, especially to the Trivandrum District Court building and also the Trivandrum Munsiff's Court building in which the Second Bench is holding court. This building is ill-ventilated. Sir, in reply to my question

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the Legal Remembrancer said that it is not ill-ventilated. Perhaps the honourable member has not had the privilege of seeing the place. The building is so constructed that there is only one door on the eastern side and one door on the western side. But there are no windows and no ventilators for the room, so much so that my statement that it is ill-ventilated is correct. During court time people crowd round both the doors and all the possible ventilation through the doorways is obstructed. Further, for a city like Trivandrum, I would even go to the extent of saying that the present building is an eye-sore and it ought to be removed. For the sake of the prestige of the city also we want better buildings.

I wish also to speak a few words with reference to the delay in execution side of the court. It is thought that moneys deposited in court are not disbursed because Government want to keep the money as long as possible. That is a wrong idea but the people in their heated imagination when they find that moneys are not being disbursed begin to think in this way. The reason is that the execution clerks do not care to get orders from the court immediately on the application and make the necessary arrangements for payment. I would in this connection refer to one instance. In a case O. S. No. 1431/1115 on the file of the District Munsiff Trivandrum money was deposited in Kumbom of 1116. Immediately application for cheque was given by the decree holder. That application was not taken to the Munsiff for orders within the next three months. After a lapse of three and half a months the application was taken to the Munsiff and some formal defect was found thereon. Without giving the party notice for even curing the defect the petition was dismissed. The reason is that the execution clerk who is in charge of these papers does not care to take the trouble of doing his duty and the result is all this unnecessary delay. Perhaps, if the Munsiff is strict, the papers might go much more quickly ; otherwise the papers will be delayed. One of the reasons, as I said, is that the execution clerks are at the bottom of all this mischief. I therefore request that Government may be pleased to see that these clerks do their duty properly. Of course, there are clerks who are working from morning to night in the civil courts and I cannot say that all of them are lazy. But, however, there are instances where they purposely keep these papers pending with a view to get consideration.

Then, with reference to jails, I have to submit a few words. Our jail has got, in my opinion, a very serious defect, namely, the mixing up of the old offenders with the young offenders. Say, a first offender who is between 18 and 21 years old is taken to the jail and he is brought in touch with old offenders who have been convicted a number of times.

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Mr. T. Krishna Pillai: May I know from the honourable member whether he means the age of the offenders when he says young and old offenders?

Mr. James Fletcher: I mean their age in the offence. An old offender is one who has been committing crimes for a number of years and has become an incorrigible and confirmed offender. When offenders who for the first time convicted are brought into contact with these confirmed criminals they learn the latter's ways. When these young offenders come out they take a pleasure in committing crimes over and over again, treating the old convicts as their heroes.

Mr. M. K. Ananthasiva Aiyar: May I know from the honourable member whether these people do not commit crimes because they want to go to the jail on account of the luxury there?

Mr. James Fletcher: Of course that is one way of viewing things. I am just viewing it from another angle.

Mr P. I. Simon: May I know whether the honourable member is aware of the provision in the Criminal Procedure Code regarding first offenders?

Mr. James Fletcher: I am aware of it. I am speaking about what is practically done.

Mr. P. I. Simon: May I know from the honourable member what that provision is?

Mr. James Fletcher: Sir, I am not prepared to answer that question. Sir, I was saying that these first offenders when they are brought to the jail come into contact with the old offenders and make these old offenders their heroes and try to imitate them when they come out of jail. So much so, we spoil the character and the nature of these young fellows. It is possible to avoid this by keeping the young offenders in a separate part of the jail or keeping them away from any contact with the old offenders.

The House rose for lunch at 1 P. M. and re-assembled at 2 P. M.

Mr. C. Kumara Das (*Director of Industries*) took the oath and signed the rolls.

Mr. James Fletcher: In British India there are Borstal schools where young offenders below the age of 21 are separately kept. They are construed as a sort of reformatory institution. These young offenders are trained in some trade or other so that when their time of detention is over they can apply themselves to some useful trade and thus earn a living. Perhaps, it is a costly scheme. It may not be possible for Travancore to start such schemes immediately. I think that a beginning could be made in that line. If these convicts who are below the age of 21 are housed in a separate building and they are taught some industry like the weaving, that will be a beginning.

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Mr. P. I. Simon : I wish to know whether the member is aware that there is a provision in the Central Prison Rules for separate accommodation of such offenders or is it the opinion of the member that those rules are not being observed by the Central Prison authorities ?

Mr. James Fletcher : Whatever that be I have not seen these offenders below the age of 21 being segregated and separately kept. I do not know whether the relevant rules are being followed or not. I know for a fact that these men are not segregated entirely from the influence of old offenders. Nor are they taught any trade. With these words I support the demand.

Mr. G. Narayana Aiyar : Sir, before proceeding to speak a few words on this demand, I want to enter into an emphatic protest against the observations of the honourable member Mr. Ananthasiva Aiyar on the floor of the House regarding the behaviour of lawyers and their profession in general.

Mr. M. K. Ananthasiva Aiyar : A word of personal explanation Sir. To a question asked by Mr. Narayana Aiyar as to whether there is any provision in the rules whereby the instalments may be sent by Anchal money order, I answered that that system may give rise to difficulties, in that there will be some difference between the amount sent and the amount actually received by a party. Thereby, I did not mean any sort of disrespect to the profession.

Mr. G. Narayana Aiyar : Now that the honourable member explains away his statement by saying that he did not mean any disrespect to the legal profession, I do not propose to pursue the matter.

Sir, I have great pleasure in saying that, as the Dewan President observed the other day, the profession of law in Travancore is not in any way inferior to what is obtaining in British India. The Advocates and Vakils practising in Travancore are not at all inferior to those in British India. Sir, you have had several occasions to mingle with them freely and have observed very closely this aspect of the matter and on prior occasions, you, Sir, have given expression to such feeling. It is indeed gratifying to note that the presiding officers in our courts too leave nothing to be desired. They are persons of high intellectual attainments. My honourable friend Mr. Govindan was himself a District Judge. He has detailed from his own experience that the present standardisation of pay of the District Judges would seriously tell upon the proper disposal of work by them. Having been in the position of a District Judge, Mr. Govindan knows more or less the difficulties that a judge has

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[Mr. G. Narayana Aiyar.]

to encounter in his work. Their work is in every way far complicated and superior to what an executive departmental head has to do. In this connection, it may not be out of place in drawing the attention of Government to the fact that the pay of a sub-judge in British India is not less than Rs. 750. I do not know how our judges are inferior to them to deserve less scale of pay. Is it because that they are judges in a native State. Or, is it because they do not possess the necessary legal qualifications. Our judges have also to turn out very substantial work. Subsequent to the prior standardisation, there is a general decline in the satisfactory disposal of their work due to dissatisfaction. With the coming in of the new standardisation, I am afraid there is bound to be a further decline in the quantum of work to be turned out by them. A District judge must at least receive Rs. 500 as salary to start with. The starting pay of Rs. 400 is very low. To me it appears that they need not be given a maximum pay of Rs. 700. It would be enough if their pay is fixed at Rs. 500 to 600 and I am sure they will be satisfied with this. I request Government to reconsider their decision and see that the District Judges are excluded from the category of the new standardisation scheme.

In the matter of awarding capital punishment, I agree with the observation of my honourable friend Mr. Kuruvilla in thinking that it is high time to stop it. In a majority of murder cases the deed is committed as a consequence of anger or drunkenness without premeditation. Let us take a concrete instance. A man commits murder. Having committed it, the man who does the offence must be made to realise that he has committed a very heinous offence. It is only by inflicting some severe punishment other than hanging, he will feel for the gruesome act done by him. If he is executed, he is finished in a minute or two. Where is the occassion for him to repent and reform? I do not think there is meaning in inflicting capital punishment.

Mr. V. Sankara Menon: May I ask the member, is the act of murder an object lesson for others to be followed?

Mr. G. Narayana Aiyar: My point is that when a man is executed, the suffering undergone by him may not be known by the others. After all the whole thing will last for a minute or two. The man who does the offence must realise that because he has committed it, he is made to feel for it. That is not the way in which an accused who has committed murder has to be punished. So, I agree with the honourable member in saying that it is time to abolish capital punishment.

Mr. K. M. Kesavan: Sir, in view of the importance of the matter I also wish to say a few words on the award of capital

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punishment. It was stated by some honourable members that capital punishment should be abolished. Sir, one can understand the underlying principle in taking such a view. But all murders are not alike. We can understand that under serious provocation a person may lose his temper and commit some heinous offence. It all depends on circumstances. In a generality of circumstances, provocation may end in disaster. If a man commits murder under no provocation, then such an act shall not go unpunished. Is it not a fit case for awarding capital punishment ? I know of certain murder cases where without any provocation whatsoever, a respectable man of a very respectable family was murdered while he was sleeping. Is it, I ask, the opinion of some members to endorse the view namely, that even such persons should not be hanged.

Mr. T. K. Kittan: മൻ രാഗദ്വേഷംകൊണ്ടു ഒരുത്തൻ ഉറങ്ങിക്കിടക്കുമ്പോൾ വെട്ടി കൊല്ലുന്നതോ ?

Mr. K. M. Kesavan: അതു കുറെകൂടി കഠിനമാണ്.

Mr. T. K. Kittan: അങ്ങിനെയൊക്കെയാണ് ഈ കൊലപാതകങ്ങളൊക്കെ നടക്കുന്നതു്

Mr. K. M. Kesavan: Then in regard to whether some category of persons should be exempted from hanging that also cannot be easily said without considering the merits of each case. I know the case of a woman. I will not call her a woman but only as female because, by saying a woman, we associate with her certain qualities such as kindness, patience etc., and certain fine sentiments. This female enticed a poor lass of three years into a wood and there strangled the innocent child to death to rob it of its jewels. She was caught red-handed. Should not such a female be given capital punishment ? I know of an instance where a learned judge of our High Court lamented over his inability in not being able to pass the sentence of death on a woman who committed such a heinous crime as almost in the same manner I have described. Similar is the case with the Brahmins, We all of us hold the Brahmins in esteem and regard because by the term 'Brahmin' we associate with them certain virtues such as purity, learning, mercy, sympathy etc.. But a Brahmin by committing such a crime as murder relinquishes all such considerations and then he should be considered as one among any other culprits. So I cannot understand why any weight should be attached to the arguments advanced in favour of the abolition of capital punishment even with regard to Brahmins. If we are to endorse the view that capital punishment should not be abolished, even women and Brahmins, irrespective of the community of the offender, all must be hanged. As to whether who should or should not be hanged will have to be decided on the merits of each case.

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[Mr. K. M. Kesavan.]

Then, a word about the Krishnapuram Munsiff's Court. It was transferred from there and located for some time at Kayancolam. Kayancolam is historically a very famous town and even during the time of the East India Company the Dutch were carrying on trade at Kayancolam. Since they abandoned the place local merchants have been carrying on trade on a small scale and one of the important merchants of Kayancolam is present here. I refer to Mr. Hajee Hassan Yacoob Sait. Kayancolam is situated on the convergence of three taluks. By the abolition of Krishnapuram Court the merchants of Kayancolam have to go to three different courts. As pointed out by my friend, this is causing considerable difficulty to the merchants with regard to the presentation of their account books. So I request the Government to take this matter into their serious consideration and re-establish a Munsiff's Court in Kayancolam as early as possible.

Another matter I have to point out is with regard to the jurisdiction of the Mavelikara Munsiff's Court. Almost all pakuthies of the Karthigapally taluk come within a distance of 4 or 5 miles from Mavelikara where the present District Court is located. But the poor people of Karthigapally taluk are compelled to go to the Alleppey District Court which is more than 25 miles from the centre of Karthigapalli taluk. It is very inconvenient and expensive. This matter has been brought to the notice of Government and to the judges of the High Court about a year ago. But no orders have yet been issued and the people of Karthigapally taluk are experiencing very great difficulty. I invite the immediate attention of Government to this matter. With these words I support the Demand

Mr. T. K. Kittan : സർ, നീതിന്യായ വകുപ്പിനും ജയിലിനും കൂടി ആവശ്യപ്പെട്ടിട്ടുള്ള തുക അനുവദിക്കേണ്ടതാണെന്നു ഞാൻ അഭിപ്രായപ്പെട്ടുകൊള്ളുന്നു. കായംകുളത്തുണ്ടായിരുന്ന മുൻസിഫ് കോടതി നിറുത്തലാക്കിയതിനെ വീണ്ടും സ്ഥാപിച്ചുകൊടുക്കണമെന്നു ആ ദിക്ക്‌വാസികൾ ആവശ്യപ്പെടുന്നതനുസരിച്ചു സാധിക്കുമെങ്കിൽ അതു ചെയ്തുകൊടുക്കണമെന്നു എനിക്കു അഭിപ്രായമുണ്ട്.

കൊലപാതകം ചെയ്യുന്നവരെ തൂക്കിക്കൊല്ലണമെന്നൊരുഅഭിപ്രായവും, അങ്ങിനെ ചെയ്യുകൂടാ എന്നു വേറൊരഭിപ്രായവും ഇവിടെ വരികയുണ്ടായി. തീവെട്ടി കൊള്ളക്കാരെയും കൊലപാതകികളെയും കൊന്നൊടുക്കാതെ ഇവിടെ വച്ചിരുന്നാൽ ഒടുവിൽ ഈ രാജ്യത്തു അവർ മാത്രമെശേഷിക്കുകയൊള്ളൂ. അതുകൊണ്ടു അവരെ കൊല്ലുകതന്നെ വേണം.

മി: കല്ലൂർ നാരായണപിള്ള അഭിപ്രായപ്പെട്ടതുപോലെ വസ്തുക്കളെ സംബന്ധിച്ചുള്ള കുഴപ്പം തീർക്കുന്നതിനു ഓരോ വസ്തുവിനും അതി

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ന്റെ കൈമാറ്റങ്ങളെ വിവരിക്കുന്ന , എൻഡോഷ്മെന്റാട്ടുകൂടിയ ഓരോ പാസ് ബുക്കുണ്ടായിരിക്കുന്നതു് നന്നായിരിക്കും. അതു അമേരിക്കായിലോ മറ്റോ നടപ്പുള്ളതായി അദ്ദേഹം പറയുകണ്ടായി. അതു നാം ഇവിടെ ഒന്നു പരീക്ഷിച്ചു നോക്കിയാൽ ഭൂമി സംബന്ധിച്ചുള്ള തകരാറുകൾക്കു വലിയ കുറവു വരും. കേസും കൂട്ടവും വളരെ കുറയും.

കൊല്ലത്തും കോട്ടയത്തുമുള്ള പബ്ലിക്ക് ആഫീസുകളെല്ലാം ഒരെ വളപ്പിനകത്താക്കണം. കൊല്ലം, കൊല്ലം ഡിവിഷന്റെയും, കോട്ടയം, കോട്ടയം ഡിവിഷന്റെയും തലസ്ഥാനമാകുന്നു. ഈ സ്ഥലങ്ങൾ തലസ്ഥാനമാകകൊണ്ടു പല കച്ചേരികളും അവിടെയുണ്ടു്. ഓരോ കച്ചേരി ഓരോ സ്ഥലത്തു ഇപ്പോൾ സ്ഥിതി ചെയ്യുന്നതുകൊണ്ടു കക്ഷികൾക്കും വക്കീലന്മാക്കും വളരെ അസൌകര്യമുണ്ടാകുന്നു. വക്കീലന്മാർക്കു ജില്ലാ കോടതിയിലും, മുൻസിഫ് കോടതിയിലും, മജിസ്ട്രേട്ട് കോടതിയിലും കേസുകാം ഉണ്ടായിരിക്കും. വക്കീൽ ജില്ലാകോടതിയിൽ കേസ് വിസ്തരിച്ചുകൊണ്ടിരിക്കുമ്പോളായിരിക്കും മുൻസീഫ് കോടതിയിൽ കേസ് വിളിക്കുന്നതു്. കക്ഷികാണും. വക്കീൽ ഉണ്ടായിരിക്കയില്ല. വക്കീലിനെ വിളിച്ചുകൊണ്ടു വന്നില്ലെങ്കിൽ മുൻസീഫ് കേസ് തള്ളും.

കക്ഷി വണ്ടിയും പിടിച്ചു വക്കീലിനെ വിളിക്കാൻ ചെല്ലുമ്പോൾ വക്കീൽ കേസ് വിസ്തരിച്ചുകൊണ്ടിരിക്കുന്നതുകൊണ്ടു വരാൻ സാധിക്കുകയില്ല. കക്ഷികൾക്കു അനാവശ്യച്ചിലവുകളും നഷ്ടവും ഉണ്ടാകുന്നു. എന്നാൽ ഈ കച്ചേരികളെല്ലാം ഒരു വളപ്പിനകത്തായിരുന്നാൽ ഈ വിഷമം വരികയില്ല. അതുകൊണ്ടു അങ്ങിനെ ചെയ്യുന്നതിനു വേണ്ട ഏർപ്പാടു ചെയ്യണമെന്നു ഞാൻ അപേക്ഷിക്കുന്നു.

Mr. Puthupalli S. Krishna Pillai : Sir, it is gratifying to note that a very large number of members of this honourable House has taken a keen interest in the well-being of this department. Various points have been stressed and within the short time that may be allotted to me I may not be able to deal fully with all the points raised by the honourable members. But I shall however try to touch upon some of the salient questions raised by them.

The protagonists and antagonists of capital punishment seem to be well matched and but for the provocation given by Mr. Kuruvilla I rather feel that atleast that section of the population which is now enjoying the privilege would have continued to enjoy it for some time more. But as the matter has been brought to a crisis I have to state that it is the intention of Government to make appropriate amendments in the penal code so that invidious distinctions of caste and sex will be completely wiped out of the statute book.

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Mr. K. K. Kuruvilla: I shall be sorry if a section of the population is to suffer because of the statement that I have made.

Mr. Puthupalli S. Krishna Pillai: I am sorry I never meant that but for Mr. Kuruvilla Government would not have come to this conclusion.

President: Government were thinking of it even from some time back.

Mr. Puthupalli S. Krishna Pillai: Government are fortified in the attitude that they have already taken when there is such preponderence of non-official opinion. The question whether capital punishment should be awarded or not has been in recent times the subject of serious discussion in the House of Commons and any honourable member who is interested in the question may refer to the volume of the Parliamentary Debates which is available in the Legislative Library. Very eminent men have taken prominent part in the debate and all arguments for and against have been put forward. I do not wish to take the time of the House in repeating those arguments. So far as this Government are concerned they do not intend to make a departure from the practice prevailing through out the British Empire.

Several honourable members adverted to the working of the provisions of the Debt Relief Act. One prominent matter brought to the notice of the House appears to be the inordinate delay in the matter of getting the money actually deposited in the courts. This information is a bit of surprise and I have to thank the honourable members for telling openly on the floor of the House that there are yet people who carry on propaganda against the interest of the Government. If last year or year before last any person had made the statement I would not have been surprised. But to say that money deposited in courts is not given out probably suggesting thereby that Government want to retain it for their own use is preposterous. To hear such calumnious statements certainly brings pain to some extent to those in authority. Crores of rupees are still available with Government. Why should these petty deposits in Government Treasuries be retained for the use of Government? One possible reason has been alleged by Mr. Kunjukrishna Pillai. It is difficult to get money from courts without spending some more money for it. That is an allegation imputing corruption to the subordinate staff of the Judicial Department. Government's attention has not yet been brought to bear upon that question specifically. Statements have been made year after year that there is corruption prevailing amongst the subordinate staff of the Judicial Department.

Definite and stringent instructions have been issued from time to time to the High Court for the purpose of checking corruption. They were told that any case of alleged or suspected corruption

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which could be brought to their notice should be severely dealt with. Unfortunately, as was stated with reference to the allegation of corruption in other departments, the public are not co-operating fully with the authorities for the purpose of bringing to book the culprits. Even a member like Mr. Kottur Kunjukrishna Pillai whose outspokeness in various matters has landed him in trouble but have never deterred him in giving utterance to what is uppermost in his mind fears to express boldly what according to him.....

Mr. Kottur Kunjukrishna Pillai : Sir, a word of personal explanation. What I said was that I have not got definite information regarding any person who caused the delay and I was not prepared to speculate or rush in where other people fear to tread.

Mr. Puthupalli S. Krishna Pillai : Yes, Sir, it is the common practice of the people not to come forward with sufficient evidence to prove cases of corruption. The lawyers who are engaged in these cases are better fitted than their clients to bring forward cases of any suspected or actual corruption. But they fear that if they show any interest in the matter of bringing any case of corruption to the notice of the court they may be individually sufferers for the same. I think this must have been behind the mind of Mr. Kottur also.

President : This is not a phenomenon only existing here. A particular lawyer in Madras never get the warrant for his arrest because it is always missing.

Mr. Puthupalli S. Krishna Pillai : But, Sir, it would appear from a statement furnished by the High Court that over four lakhs of rupees are deposited in courts under the Debt Relief Act and there are about 40,000 petitions filed under the same Act. On the strength of the representations made in this House Government will certainly enquire into the allegations regarding the delay in remitting the deposit money to the creditors. Government will take every step in ensuring prompt receipt of the money deposited by the debtors, But I may also state, Sir, that there may be cases where the money cannot be so readily paid. For instance, I know a certain case in which the amount due from the debtor is actually ascertainable, but it would not be possible to state who the creditor is. That is an hypothecated debt which has been transferred by the hypothecatee to his wife who subsequently pledged it with another. This transfer may not be notified or it may be a benami transfer. In such cases the debtor himself might take the allegation that the amount is definitely due to a particular person and from the records it may be seen that the debt is due to some other person. Such cases may give room for delay. Again there may be cases in which the amount are under attachment. In regard to those cases

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where delay is unnecessary Government do not see why there should be any delay at all.

Mr. Kottur Kunjukrishna Pillai: May I inform the honourable member that it is possible to cite cases of delay where there is absolutely no dispute between the decree holder and the debtor with regard to the amount? And it has not been possible to get the money though it was deposited as early as Kumbhom this year.

Mr. Puthupalli S. Krishna Pillai: Government are thankful to the honourable member for the information and if more definite information can be given I can assure the honourable member that they will enquire into this matter.

Sir, it was suggested by one honourable member that the rules framed under the Debt Relief Act are defective in as much as the petitions filed under Section 16 are held up. For my part I am not in a position to say what further rules are necessary. The provisions of the Act are clear on the point and no supplementary rules were suggested by the High Court and so no rules were made. I may, here, draw the attention of the honourable members to the relevant portion of Section 18 of the Act which provides that in the matter not expressly provided for, the provisions of the Insolvency Act will apply *mutatis mutandis*.

If that is so, if the form of the application, and the contents of the application.....

Mr. M. Govindan: Sir, it is stated that one fourth has been provided from the assets to be given to the petitioner under that Act. If the duration of the enquiry comes to about two or three years may I know whether that approximate one fourth will be given to him during the enquiry or only after the enquiry?

Mr. Puthupalli S. Krishna Pillai: It depends on the judicial mind, that is, the question can be answered by the application of the judicial mind. Whether before the proceedings are concluded he can be given the one fourth of the property is a hypothetica question which I am not expected to answer. Sir, when this Act was passed it was the intention of this House and also it was the intention of the Government that justice should be done to the debtor and so it is their intention that justice should not be denied to him on account of the delay in the Court. Government will be the first to deprecate any delay occasioned by any reason, known or unknown. Apart from this, Sir, I do not find any reason to apprehend that Section 16 is not put into operation because of the absence of certain rules. Government will certainly enquire into the matter and find out whether there is any means of speeding up the disposal of the applications under Section 16.

Then it was pointed out that we should establish Borstal Institutions for preventing the juvenile offenders from mingling with

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other convicts. I may assure the honourable members that if the present rules are strictly followed this will not be possible. If there is any occasional or individual lapses it is for the honourable member to bring it to the notice of the Government and they will be only pleased to enquire into the matter. So far as information goes I find that these rules are strictly enforced and applied. As regards the establishment of a Borstal Institute in Travancore I may say that a committee has been constituted and the question is being studied by them. It may be of interest to know that the Criminal Procedure Code Amendment Bill which will be placed before this House makes ample provisions for dealing with first offenders. More lenient provisions are made for the first offenders. If our courts make any use of the proposed rules, I think it will be one step in advance in regard to the solving of the problem of juvenile offenders and first offenders. This will mark an important advance in the administration of criminal law. I trust that the gentlemen of the legal profession and the public and the authorities concerned will make the best use of these provisions. The provision in the existing Criminal Procedure Code relating to the probation of offenders does not appear to have even made full use of. Very few people know that there is such a provision in the Act. And very few judicial authorities avail themselves of this provision. In fact even the Vakils appearing for the accused seemed to be either disinclined to take advantage of this provision or are ignorant of the fact that there is such a provision. In any case the number of offenders who are let off on probation is very limited. However it is for the public to take advantage of that provision. So far as Government are concerned, they have done their best.

Now, Sir, it was pointed out that the Village Panchayat Court at Trivandrum does not function properly. I may say, Sir, that is one which deals with the heaviest file so far as the Village Panchayat Courts are concerned throughout the whole State. Government have recently made a rule that if a judge of the Panchayat Court continuously absents himself from 3 sittings he would lose his right to continue as a judge. These rules have been enforced in a few cases and Government are glad to note a change in the attitude of most of these judges. With regard to the granting of T. A. to the judges of the Panchayat Court, Government think, that it does not require any serious consideration as these are honorary posts and when the question of payment comes up further complications would arise. Moreover Government do not want to make them dependent on them. The Panchayat system is an institution which is maintained entirely for the public and the public themselves should have the self-sacrificing spirit to contribute something to the discharging of such public duties. If the public of Travancore are not willing to make a small sacrifice in the matter of discharging this function, Government may then think of adopting some other method.

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Mr. Fletcher's demand, it is, however, cheering to note—has not gone beyond 8 annas for a day's attendance. Panchayat Courts are established only in towns where travelling is very cheap. Take for instance Trivandrum. We have the circular bus which turns up at the same spot almost every hour. If you travel in that bus you will not have to pay more than 8 chuckrams for the whole month.

Mr. V. Sankara Menon: May I know from that whether the same principle cannot be applied to Legislative Bodies here?

Mr. Puthupalli S. Krishna Pillai: Legislative Bodies stand on a different footing and where honourable members who have to attend this House, have to come from Parur and Kottayam, it may not be proper that they should be expected to spend from their pocket Rs. 100 or Rs. 50 for that purpose. Panchayat Courts are established in important and commercial towns where the Judges are almost always resident within the town.

Mr. T. Krishna Pillai: May I know from the honourable member whether he is aware whether permanent residents of this town claim mileage?

Mr. Puthupalli S. Krishna Pillai: No, Sir, Government do deprecate any such conduct on the part of any honourable member of this House and it is for the members concerned to claim that for which they are entitled. It will not be proper on the part of Government to pry into the private life of a member to ascertain where exactly he lives. Certainly Government do not expect that members would practice deception.

(Mr. V. Sankara Menon: *Hear, hear.*)

It was said, Sir, that by the recent G. O. issued by the Government, fixing the salary of District Judges at 400 50/2-700, has already hit hard the District Judges. One honourable member said that their work will deteriorate and that it has already begun to suffer and all that. Sir, the decision was come to after a good deal of deliberation and after consulting the authorities concerned. A system of establishing general cadres in the Public Service was engaging the attention of Government and the invidious distinction shown between one department and another, has brought about a large amount of discontent in the departments concerned. Government wanted to obviate that difficulty and have standardised the scale of pay of certain posts. It was, as a result of that, that this change was introduced. Each officer may be doing the best in the department in which he is employed and for the reason that a judge is administering only justice, you cannot say that a Division Peishkar or the Head of a Department—Agriculture, Industry or Labour—has to discharge the functions which are in any way inferior to the other. He has also to do justice and he is also a responsible officer discharging the functions allotted to him in the best and in the most efficient manner.

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Mr. G. Narayana Aiyar: May I know the pay of the District and Sub-Judges in British India?

Mr. Puthualli S. Krishna Pillai: I am not in a position to supply the information. It will be much more. That is certain. There must be as much difference between the pay of a Travancore High Court Judge and that of a Judge in the Madras High Court. But it has been the cry of all the honourable members of this House and also of the other House, that the pay of every officer should be reduced and that no one shall get more than Rs. 500 and no one shall get not less than Rs. 25, but when the pay is standardised, honourable members come out with the objection that as the pay has been reduced, Judiciary has gone to dogs and great damage will be done to the Public Service. Government have already considered this question and they are not in a position now to reconsider it.

The last of the important question raised, relates to the re-establishment of the Kayankulam Munsiff's Court. Sir, I, for my part, can say that the question was considered by the Laws' Delays Commissioner. From the fact that the question was considered by him, honourable members can infer that the question, whether the court should or should not be there, had from a longtime past begun to engage the attention of the authorities concerned. Krishnapuram was a place where there was a District Court in the good old days. When the Quilon District Court was established, Krishnapuram District Court had to be abolished, but Krishnapuram had its Munsiff's Court. A cry was raised that the jurisdiction of the Krishnapuram Munsiff's Court was unmanageable and that a Court should be established at Karunagapally, a central place. Government have, in accordance with the public wishes, established a Munsiff's Court at Karunagapally. But the new Court had to be given full work and therefore a good portion of the Karunagapally taluk had to be allotted to the Karunagapally Court. What remained of the Karunagapally taluk, i. e. two or three pakuthies of the Karunagapally taluk, alone remained with the Krishnapuram Munsiff's Court, but that Court had to be given full work and therefore pakuthies from all the big taluks had to be taken and given over to the Krishnapuram Munsiff's Court. The building available at Krishnapuram happened to be unsuitable for housing the Court and it was also decided that the Court should be shifted from Krishnapuram to Kayamkulam for various reasons. In the first place, there was a better building. In the second place, it was more thickly populated. In the third place, it was found to be more convenient to the litigants and the Vakils. All these things were taken into consideration and therefore, Krishnapuram Court was transferred to a central place, Kayamkulam. But the work that had to be transacted by the Kayamkulam Munsiff's Court happened to fall and it was considered inadvisable or inexpedient to expend public money for the purpose of maintaining a Court which

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has no work. At the same time, the question of the establishment of the Mavelikara District Court had also to be tackled and it was found that the portion of the Mavelikara taluk which was within the jurisdiction of the Kayankulam Munsiff's Court, had to be re-transferred to the Mavelikara Court. In spite of re-allocation of these pakuthies to the three different Courts, it cannot be said that the work in any one of these Courts has become too heavy or unmanageable. No doubt, Government were impressed by the fact that the merchants in Kayankulam are put to some inconvenience but for the purpose of recovering small amounts due to them, there is still a Panchayat Court, which has not been disturbed, and the Panchayat Courts are designed particularly for the convenience of traders who have to recover small amounts from persons living within the jurisdiction of such Court. That Court is functioning and and Government understand that it is functioning efficiently. When this matter was brought to the notice of Government ; they referred the matter to the High Court. The deputationists themselves were allowed to interview the Judges of the High Court and all their arguments were heard. Government keep an open mind but they in the re-allocation of the jurisdiction of the several Courts, always abide by the advice given by the High Court. After hearing all that the deputationists had to say and after considering all the questions raised in this and the other House concerning this matter, the High Court recommended that they found no reason to review their decision and Government have accepted that decision. If, at any time, Government find that it is necessary to establish a Court in any place, it is open to them to do it, but I have to inform the honourable members that, as matters stand at present, the considered opinion regarding the re-establishment of a Court at Krishnapuram, is that it will be a waste of public money. But Government, all the same, keep an open mind and if, at any future time, on a further consideration of this matter, they think that a Court has to be established, Government will be only too ready and willing to re-establish a Court. Sir, I believe that I have dealt with the important questions dealt with by the honourable members.

Mr. M. Govindan: What about the housing of the Trivandrum District Court in a more suitable place?

Mr. Puthupalli S. Krishna Pillai: In reply to an interpellation, I had stated that the matter was engaging the attention of Government. The District Court building constructed in Trivandrum must be consistent with the importance of the Trivandrum town. The question of the housing of the Courts in the Trivandrum town in a central and convenient place, is engaging the attention of Government. Honourable members may know that the several public offices which were lying scattered in the Trivandrum town, have now been brought into one building. The other question is equally important and it will be speedily attended to.

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Mr. K. M. Kesavan: What action has been taken about the court in the Karthikapalli taluk?

Mr. Puthupalli S. Krishna pillai: That question has also been examined by the High Court. Probably the person living in the western portion of a pakuthy, say Pathiyur may go to Karthikapalli but it will not be so convenient to a person who is living in the eastern part of it. Such results are inevitable. The matter has been considered and it has been decided that it may lie overfor the present.

President: I note that the interest evinced in the discussion of the questions arising out of the grant has already led us beyond the time-limit. But as two matters of some importance have been raised in the debate I think it is as well that the Government policy should be formulated.

The first point relates to capital punishment. I may say, speaking personally, I emerged from my school and college days as an exponent of the abolition of capital punishment, especially, as in those days we students were diligent readers of books like Victor Hugo's Les Miserables. But with a long experience of the law as a practitioner and with the knowledge acquired while in charge of the portfolio of law and order my ideas regarding capital punishment have suffered an alteration. I fully sympathise with those who, as a philosophical concept, are convinced of the doctrine that no person has a right to take a human life. I equally agree that it is open to contention that human justice is not infallible, and on few occasions can it be said that in criminal cases no other verdict was possible than that the accused was guilty. Therefore, certain groups of people have come to the conclusion that the responsibility for taking away human life was so grave that society should adopt some other and essentially more merciful methods. Keeping in view that no legislature and no court in India in modern times can follow the old Hebraic maxim of tooth for tooth and eye for eye, but remembering also that the object of this punishment is to deter other peoplefrom committing similar offences, Government have for the time being, come to the conclusion that no case has been made out for the abolition of capital punishment. The learned Legal Remembrancer has adverted to the recent debate in the House of Commons where giants fought over this controversy and the decision arrived at there was that capital punishment need not be abolished for the time being.

Speaking entirely personally, and being open to correction, my own view has been that for a certain type of hardened criminal the punishment of imprisonment, that is of leading a very easy life for several years in the Central Jail—I have been visiting the Central Prison more than once and I know that in the matter of diet and

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accommodation it is as good as any in India—is wholly appropriate the idea that for seven or eight years a certain person should get more to eat than at any other time in his life, that he will be looked after better than at any other time in his life, is not such a deterrent as to constitute a punishment. But in reality in Travancore this is hardly a live question. One of the phenomena I noticed when I came here was that very few judges here wanted to award capital punishment. They forget that so long as the law lays down capital punishment it has to be administered in appropriate cases. If a judge does not so administer the law I hold him to be an encourager or abetter of the crime. I shall not flinch from saying that if a judge is convinced that a horrible murder has been committed and if he weakly declines or fails to award the extreme penalty he would be largely responsible for the increase of serious crime in the State. Cases have come to my notice where judges have tried to invent—I use these words deliberately—excuses and devices for converting murder into some other crime and to invent grave and sudden provocations where none really exist. As I read such judgment I am struck with dismay. Speaking as a lawyer, from the judgments which have come before my notice I find that some judges fortunately only one or two have descended to what I must call dishonesty in order to acquire *punnyam*.

Feeling like that and feeling that the tendency in this State is to be lax rather than otherwise and I say that the question of capital punishment is not a live one in Travancore. Nextly to my mind it was a matter of some humiliation when I first read Section 3 of the Travancore Penal Code exempting the Brahmin as such from capital punishment. If the Brahmin is or was entitled to respect it is and was because he was expected to be worthy of his heritage. If he commits a crime he must have a more deterrent penalty than is imposed upon others. A Brahmin who is a murderer should not be exempted by the fact of his birth, but should be proceeded against more strictly.

In the case of women, we associate with them gentleness, delicacy, refinement and other similar qualities, but just as in the case of Brahmins when women commit murders, when they have no sense of gentleness or any of those qualities we associate with women, then there is no reason to exempt them.

I have been very pained indeed to listen to apparently justifiable comments on the floor of the House relating to delays under the Debt Relief Act and in the matter of execution. I know that the Debt Relief Act is not fashionable with some judges. I know that generally speaking the judiciary was opposed to the Debt

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Relief Act. But the glory of our judiciary has been and will I trust, continue to be, that whatever might have been their personal opinions about any proposals before once a law has been enacted it will be implemented faithfully, loyally, and in the spirit in which the Legislature enacted it. As to delays, all that can be said is that Government have taken upon themselves a very unpalatable duty. As a lawyer it has been one of my principles never to say anything by way of criticism against any judge because my training is to regard him as exempt from criticism. But the delays in Travancore were such as to bring a certain amount of disgrace to Travancore as a State,—as a State where capital could be profitably used, as a State where industrial development and commercial progress could be attained. There was reluctance on the part of people to bring money and enter into transactions because of the delays in courts. Therefore shedding my experience as a lawyer, I resolved to scrutinise the work of the judiciary and if unpardonable delays occur there will be no hesitation on the part of Government to withhold preferment and promotion to judges responsible for the delay. For in the judiciary, as anywhere else, every one has every day to justify his existence.

Justice delayed is justice denied. The judge who delays is not doing justice. Execution clerks receiving tips—these are very well-known phenomena. Most people tip the guards in the Railway. The inflexible rule is that one should not tip the guard but if you do not tip him you cannot get your seat. I know of lawyer's clerks as well as litigants have to tip the subordinates in the courts in order to get things done speedily. So far as such tips are in the state of small douceurs there is little to be said. But if there is fundamental corruption or a system of deliberate selling or withholding of favours very strict measures have to be taken.

The question that a sum of Rs. 10,65,073 and a sum of Rs. 1,15,197 be granted under Demand XIV—Administration of Justice and XV—Jails respectively was then put and carried.

DEMAND XVI—POLICE—Rs. 10,65,073.

Rajyasevapravina Khan Bahadur G. S. Abdul Karim Sahib Suhrawardy (*Inspector General of Police*): Sir, I move for a grant of Rs. 10,65,073 under Demand XVI—Police.

Mr. Kottur Kunjukrishna Pillai: Sir, before this Demand is taken up for discussion, I wish to say that we have not yet received the Administration Report of this Department. If it is made available to us at least to-day, this Demand may be taken up for discussion to-morrow.

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